UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,914	11/26/2003	Israel Raz	132076UL (12553-1020)	1899

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/722,914	RAZ, ISRAEL
	Examiner	Art Unit
	David E. Martinez	2181

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 April 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>30 January 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 5-10 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over US Patent No. 6,023,343 to Hoang et al. (hereinafter Hoang) in view of US Patent

Application Publication No. US 2004/0084971A1 to Shukla et al. (hereinafter Shukla).

1'. With regards to claims 1, 9 and 17, Hoang teaches a method for managing outputs to

peripheral devices in medical systems devices, said method comprising:

providing an instruction to control a peripheral [fig 1 elements 24 and 26 send print jobs

(data objects) to a printer element 10, column 6 lines 45-59];

creating a data object based on the instruction [fig 1 elements 24 and 26 send print jobs

(data objects created by host elements 24 and 26 – "input devices") to a printer element 10,

column 6 lines 45-61];

storing the data object in a second memory to be output to the peripheral device [fig 1

RAM memory element 34, column 7 lines 38-48, column 8 lines 3-7, lines 19-30, 47-55, column

3 lines 3-22] and

storing the data object in a first memory [fig 1, hard drive element 38] if the peripheral

device [fig 1 element 36] is not available to accept the data object [column 7 lines 38-48, column

8 lines 3-7, lines 19-30, 47-55, column 3 lines 3-22], wherein the first memory [fig 1, hard drive

element 38] stores the data object for a longer time period than a second memory [fig 1 RAM

memory element 34].

Hoang teaches all of the above limitations but is silent as to performing the storing of the data in a first memory under the condition of "if the peripheral device is not accessible" (as per claims 1 and 17) or "if the peripheral device is not in an active state" (as per claim 9). However, Shukla teaches storing data in a first memory (a hard drive) if a peripheral device is not accessible or if a peripheral is not in an active state [fig 6 element 606 determines if the peripheral device (such as a printer) is accessible or active since by determining if a peripheral has enough energy to perform a task (if accessible or not) and also determines that the peripheral device is not in an active state (although it might be online or on, but not active as in printing a task/job), because the tasks that are checked if they can be performed, are in a task queue thus the device is not active with the tasks. In addition, fig 6 element 608 stores the task/job (a data object) in a first memory (such as a hard drive) – abstract, paragraph 25] for the benefit of scheduling the completion of a task/job/operation(on a data object) at a later time when the peripheral device is accessible [paragraph 6-8].

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hoang and Shukla to perform the storing the data object in a first memory if the peripheral device is not accessible (as per claims 1 and 17) and if the peripheral device is not in an active state (as per claim 9) for the benefit of scheduling the completion of a task/job/operation(on the data object) at a later time when the peripheral device is accessible [paragraph 6-8].

Furthermore, claim 1 above calls for the peripheral device being used in medical system devices. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

2.   With regards to claims 2, 10 and 18, Hoang teaches a method in accordance with claim

1 further comprising:

      determining whether the peripheral device is available to accept the data object []; and

      transferring the data object from the second memory [fig 1 RAM memory element 34] to

the first memory [fig 1, hard drive element 38] upon determining that the peripheral device [fig 1

element 36] is not available [column 7 lines 38-48, column 8 lines 3-7, lines 19-30, 47-55,

column 3 lines 3-22].

3.   With regards to claims 5 and 13, Hoang teaches a method in accordance with claim 1

wherein said providing the instruction to provide the output comprises one of [←Please Note the

Alternative Language]:

      instructing to print [fig 1 elements 24 and 26 send print jobs (data objects created by

host elements 24 and 26 – "input devices") to a printer element 10, column 6 lines 45-61]; text,

report, images,

      instructing to record to a video cassette recorder;

      instructing to electronically mail a copy of images to a remote location;

      instructing to create a copy of the images on one of a floppy disk, a magneto-optical

disk, a CD, a DVD, a flash memory card, and a digital versatile disc; and

      instructing to create a copy of a patient's information on the digital versatile disc.

4.   With regards to claims 6 and 14, Hoang teaches a method in accordance with claim 1

wherein said creating the data object based on the instructions comprises one of [←Please

Note the Alternative Language]:

      creating a first data object that instructs to print [fig 1 elements 24 and 26 send print jobs

(data objects created by host elements 24 and 26 – "input devices") to a printer element 10,

column 6 lines 45-61];

creating a second data object that instructs to record to a video cassette recorder;

creating a third data object that instructs to electronically mail a copy of images to a

remote location;

creating a fourth data object that instructs to create a copy of images on one of a floppy

disk, a magneto-optical disk, and a digital versatile disc; and

creating a fifth data object that instructs to create a copy of a patient's information on the

digital versatile disc.

5.   With regards to claims 7 and 15, Hoang teaches a method in accordance with claim 1

wherein said storing the data object in the first memory if the peripheral device that provides the

output is not available to accept the data object comprises:

storing the data object in the first memory if the peripheral device that provides the

output is at least one of deenergized and unoperational [column 7 lines 38-48, column 8 lines 3-

7, lines 19-30, 47-55, column 3 lines 3-22].

6.   With regards to claims 8 and 16, Hoang teaches a method in accordance with claim 1

wherein a processor is configured to create the data object based on the instructions and

wherein said storing the data object in the first memory if the peripheral device that provides the

output is not available to accept the data object comprises: storing the data object in the first

memory if the peripheral device that provides the output is operationally de-coupled from the

processor [column 7 lines 38-48, column 8 lines 3-7, lines 19-30, 47-55, column 3 lines 3-22].

7.   With further regards to claim 9, Hoang teaches an imaging system comprising:

a source for transmitting signals [fig 1 elements 24 and 26 send print jobs (data objects

created by host elements 24 and 26 – "input devices") to a printer element 10, column 6 lines

45-61]; and

a processor operationally coupled to said source [fig 1 element 14], said processor configured to do the steps as claim 1 above and thus rejected under the same rationale.

8.   With further regards to claim 11, Hoang teaches an imaging system in accordance with claim 9 wherein said processor is configured to perform one of:

automatically obtain the data object from said first memory [column 11 lines 25-39 and 50-63].

Claims 3, 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,023,343 to Hoang et al. (hereinafter Hoang) in view of US Patent Application Publication No. US 2004/0084971A1 to Shukla et al. (hereinafter Shukla). and further in view of US Patent Application Publication No. US 2003/0053109 A1 to Lester et al. (hereinafter Lester).

9.   With regards to claims 3, 11 and 19, Hoang and Shukla are silent as to enabling a user to access the data object from the first memory. However, Lester teaches enabling a user to access a data object from a memory for the benefit of having full control of the data at any time [figs 5 and 6, paragraphs 2, 30 and 31].

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hoang, Shukla and Lester to enable a user to access the data object from the first memory for the benefit of having full control of the data at any time [figs 5 and 6, paragraphs 2, 30 and 31].

Claims 4, 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,023,343 to Hoang et al. (hereinafter Hoang) in view of US Patent Application Publication No. US 2004/0084971A1 to Shukla et al. (hereinafter Shukla). and further in view of US Patent Application Publication No. US 2002/0063880 A1 to Raney.

10.   With regards to claims 4, 12 and 20, Hoang and Shukla are silent as to a method in

accordance with claim 1 further comprising: acknowledging that the data object is received by

the peripheral device if the data object is received by the peripheral device, however, teaches

acknowledging that a data object is received by a peripheral device if the data object is received

by the peripheral device for the benefit of providing important information to a user for the

purpose of enabling the user to rectify and avoid problems [paragraphs 25, 6].

It would have been obvious to one of ordinary skill in the art at the time of the invention

to combine the teachings of Hoang, Shukla and Raney to acknowledge that the data object is

received by the peripheral device if the data object is received by the peripheral device for the

benefit of providing important information to a user for the purpose of enabling the user to rectify

and avoid problems [paragraphs 25, 6].

Response to Arguments

Applicant's arguments filed 4/25/07 have been fully considered but they are not

persuasive.

With regards to Applicant's arguments in pages 2-4 of the remarks, the Examiner

respectfully disagrees.

As recited in page 3 of the prior office action, Hoang fails to teach "storing the data in a

first memory" under the condition of "if the peripheral device is not accessible" (for claim 1 and

17) and if "the peripheral device is not in an active state" (for claim 9). However, the Examiner

still relies on the Shukla reference for the teaching of said limitations.

Shukla teaches storing data in a hard drive (a memory) under the conditions of when a

peripheral device is not accessible and when a peripheral device is not in an active state in fig 6.

Fig 6 step element 606 determines if a peripheral is accessible or not accessible (i.e. if the

peripheral is usable) by detecting if it has enough energy to perform a task. By the time the

same step is reached in the method of fig 6, it has also been determined that the peripheral is not in an active state since it is not performing any tasks (i.e. the peripheral is currently online but not performing a task - the performing of a task being equated to being an active state and the not performing of a task being equated to not being active state).

As per Applicant's admission to the many broad interpretations of the term "active state" that appear on page 4 of the remaks, the Examiners relies on its interpretation being similar to the term "printing a task and/or a job" thus fitting the rejection of the claims as shown above.

With regards to claims 2-8, 10-16, and 18-20, because they depend directly or indirectly from claims 1, 9 and 17 respectively, they stand rejected for at least the same reasons as noted above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,898,524 to Kato et al. teaches the storing of a data object in a local memory when a processing unit is not available (not accessible and not active).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,
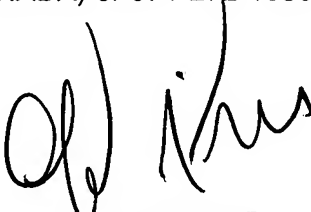
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date
of this final action.

Any inquiry concerning this communication or earlier communications from the examiner
should be directed to David E. Martinez whose telephone number is (571) 272-4152. The
examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Alford Kindred can be reached on 571-272-4037. The fax phone number for the
organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published applications
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DEM

ALFORD KINDRED
PRIMARY EXAMINER